



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,065	07/11/2000	Wayne Ihde	ADAPP136	1393

7590

04/15/2004

Albert S Penilla, Esq.  
Martine & Penilla LLP  
710 Lakeway Drive  
Suite 170  
Sunnyvale, CA 94085

EXAMINER
----------

BATTAGLIA, MICHAEL V

ART UNIT	PAPER NUMBER
----------	--------------

2652

11

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/614,065

Applicant(s)

IHDE, WAYNE

Examiner

Michael V Battaglia

Art Unit

2652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 02 April 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached Response to Arguments.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 5,6 and 12-14.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,2,4,7-9,11,15-18,20 and 21.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Response to Arguments*

Applicant's arguments filed April 2, 2004 with respect to rejections of claims as being anticipated by Ito et al (hereafter Ito) (US 6,160,778) have been fully considered but they are not persuasive.

In regard to Applicant's argument that Ito does not teach a bitmap that tracks which sectors of an optical disc have been verified, the argument is based on a logical conclusion that Applicant has made from Examiner's interpretations (see page 9 of April 2, 2004 amendment, lines 2-4). The examiner interprets a verified sector as a sector that has been determined to not be defective. The file management information creation section, interpreted by Examiner as a bitmap area, tracks verified sectors by marking them with a '1' (Col. 19, lines 41-44). The examiner notes that the sectors that have not been set to '1' in the bitmap area are either defective or unverified. The examiner further notes that there are no claim limitations requiring the bitmap of the claimed invention is to track unverified sectors.

In regard to Applicant's argument that Ito does not teach writing user data from source to sectors of the optical disc and, subsequently, the sectors are verified by comparing the written user data to user data resident on the source to determine whether any of the sectors are defective because Ito does not disclose in detail how the defective sectors are detected, the examiner notes that in order to determine if a sector is defective, information written to a sector must be read and compared with what the information should be i.e. correct information. The examiner interprets any form of memory that would be necessary to hold what the information should be as a system buffer and the correct information as data resident on the source. Therefor, Ito teaches the limitation in

Art Unit: 2652

question. Further, even though Nozawa et al (hereafter Nozawa) (US 4,525,839) is not used in a claim rejection in the final rejection, the examiner notes that Nozawa also teaches the limitation in question for the reasons stated above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V Battaglia whose telephone number is (703) 305-4534. The examiner can normally be reached on 5-4/9 Plan with 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Battaglia



**W. R. YOUNG  
PRIMARY EXAMINER**